



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,638	03/07/2007	Ernma Svenbrant	12400-057	2899

7590 06/29/2009
Steven L. Oberholtzer, Esq
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

EXAMINER

ENGLISH, JAMES A

ART UNIT	PAPER NUMBER
----------	--------------

3616

MAIL DATE	DELIVERY MODE
-----------	---------------

06/29/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/561,638	Applicant(s) SVENBRANT ET AL.	
	Examiner James English	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/09/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities: In line 1, the phrase "according to Claims 1" is incorrect. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-4, 7-8 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acker et al. (US 6,349,964) in view of Berger (DE 4226954).

With respect to claims 1-4, 7 and 10-11, Acker et al. discloses a three-dimensional airbag (18) formed from two superimposed layers of fabric (driver facing side and window facing side of the side airbag) which, when laid flat, have a common area of superimposition, the airbag (18) having a first inflatable region (20) towards an upper part of the airbag and a second inflatable region (22) towards a lower part of the airbag, the first and second inflatable regions (20, 22) separated by a transversely extending seam as the separating part (24) of the airbag which is constrained when the airbag is inflated, to have a thickness less than a thickness of either of the first and second inflatable regions (20, 22), the airbag (18) having an inflator mounting portion (16) for receiving an inflator (16). (Figs. 1-2, col. 3, lines 40-50.) Acker et al. does not

Art Unit: 3616

disclose a gusset attached to the two superimposed layers of fabric. Berger discloses at least one gusset (4, 8) arranged between the two layers (2) of fabric to create a three-dimensional shape with one or more extra portions which project beyond the area of superimposition and interconnected by means of a seam and having two pointed ends, the gusset extending around a periphery of the first and second inflatable regions. (Figs. 1-2.) It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Acker et al. to include a gusset at the top and bottom of the airbag between the side walls, as taught by Berger, in order to relieve the pressure of the initial inflation pressure and provide a softer but still firm cushion. Regarding having the gusset extend between the separating part and gas generator mounting portion, it would have been an obvious matter of design choice to make the different portions of the gusset of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

With respect to claim 8, Acker et al. discloses gas generator (16) disposed in the airbag (18), the combination of the seam (24) and gas generator (16) substantially sealing the two chambers (20, 22) from each other, with the gas generator (16) configured to inflate the two chambers to different pressures. (Figs. 1-2, column 3, lines 46-50.)

4. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acker et al. and Berger, as applied to claims 1 and 3 above, and further in view of Buchanan (US 5,603,526).

Art Unit: 3616

With respect to claims 5-6, Acker et al., as modified, is silent regarding how the insert is vented. Buchanan teaches of an airbag cushion with one or more vent openings that are initially sealed by means of a tear seam. (Figs. 3-4, col. 3, lines 58-67 and col. 4, lines 1-8.) It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Acker et al., as modified, to include an aperture with a vent initially sealed by a tear seam, as taught by Buchanan, in order to improve the protection of the head/thorax region of a vehicle occupant during a side impact collision. (Col. 4, lines 10-15.)

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Acker et al. ('964) and Berger, as applied to claim 7 above, and further in view of Acker et al. (US 5,803,485).

With respect to claim 9, Acker et al., as modified, does not disclose a narrow inflated neck between the upper and lower chamber. Acker et al. ('485) teaches of a narrow inflated neck between the upper (12) and lower (14) chamber. (Figs. 10-11a-d, col. 5, lines 29-37.) It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Acker et al., as modified to have a narrow inflated neck between the upper and lower chamber as described in Acker et al. ('485) so that the thorax portion of the airbag supports the head protection portion of the airbag. (Col. 1, lines 58-61.)

Response to Arguments

6. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

7. It is also noted that the features upon which applicant relies (i.e., a gusset extending around a periphery of at least one of the first and second inflatable regions from an end of the separating part to the gas generator mounting portion) is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited on the PTO-892 form disclose similar features of the claimed invention.

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3616

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James English whose telephone number is (571)270-7014. The examiner can normally be reached on Monday - Friday, 8:00 - 4:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on (571)272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James English/
Examiner, Art Unit 3616

/Ruth Ilan/
Primary Examiner, Art Unit 3616